

Town Board Minutes

Meeting No. 24

Regular Meeting

September 3, 1996

MEETINGS TO DATE 24
NO. OF REGULARS 17
NO. OF SPECIALS 7

Page 664
LANCASTER, NEW YORK
SEPTEMBER 3, 1996

A Regular Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at Lancaster, New York on the 3rd day of September 1996 at 8:00 P.M. and there were

PRESENT: DONALD KWAK, COUNCIL MEMBER
JOHN MILLER, COUNCIL MEMBER
MARK MONTOUR, COUNCIL MEMBER
DONNA STEMPIAK, COUNCIL MEMBER
ROBERT GIZA, SUPERVISOR

ABSENT: NONE

ALSO PRESENT: ROBERT THILL, TOWN CLERK
ROBERT LABENSKI, TOWN ENGINEER
RICHARD SHERWOOD, TOWN ATTORNEY
ROBERT LANEY, BUILDING INSPECTOR
THOMAS FOWLER, CHIEF OF POLICE
JOHANNA COLEMAN, RECEIVER OF TAXES
CHRISTINE FUSCO, ASSESSOR

EXECUTIVE SESSION:

UPON MOTION DULY MADE, SECONDED AND UNANIMOUSLY CARRIED, the Town Board voted at 9:45 P.M. to deliberate in Executive Session for the announced purpose of discussing a personnel matter.

At 10:10 P.M., the Town Board reconvened with all members present. The Town Clerk reported that no official actions were taken by the Town Board in Executive Session

PERSONS ADDRESSING TOWN BOARD:

King, Patricia, 46 Eastwood Parkway, spoke to the Town Board on the following matter.
Expressed opposition to the Bella Vista rezone project.

Donogher, John, 50 Old Post Road, spoke to the Town Board on the following matter.
Expressed support of the Bella Vista rezone project.

Fiscus, Francis, 34 Eastwood Parkway, spoke to the Town Board on the following matter.
Expressed opposition to the Bella Vista rezone project.

Gull, Henry, 710 Pavement Road, spoke to the Town Board on the following matters:

1. Cost to Town taxpayers of CARE lawsuit.
2. East property line berm at the Tops site.
3. Lighting at the Tops site.

Heckl, Robert, 706 Pavement Road, spoke to the Town Board on the following matter.
The need for proper planning in the Town.

Gambon, John, 66 Eastwood Parkway, spoke to the Town Board on the following matter.
Expressed opposition to the Bella Vista rezone project.

Kondrake, Susan, 60 Waltham, spoke to the Town Board on the following matter.
Expressed opposition to the Bella Vista rezone project.

PRESENTATION OF PREFILED RESOLUTIONS BY COUNCIL MEMBERS:

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER KWAK, WHO MOVED
ITS ADOPTION, SECONDED BY COUNCIL
MEMBER STEMPNIAK TO WIT:

RESOLVED, that the minutes from the Regular Meeting of the Town Board
held on August 26, 1996 be and hereby are approved.

The question of the adoption of the foregoing resolution was duly put to a vote
on roll call which resulted as follows:

COUNCIL MEMBER KWAK	VOTED YES
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 3, 1996

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

WHEREAS, RICHARD S. WALCZAK, the owner of real property situate at 23 Chestnut Corner, in the Town of Lancaster, New York, has submitted an application for a Special Use Permit for a Home Occupation (Income Tax Service), in accordance with provisions of Chapter 50-Zoning of the Code of the Town of Lancaster;

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to Chapter 50-Zoning, Section 17 (F), entitled "Home Occupations" of the Code of the Town of Lancaster, a Public Hearing on the proposed Special Use Permit for a Home Occupation (Income Tax Service) on premises locally known as 23 Chestnut Corner, Lancaster, New York, will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, on the 16th day of September, 1996, at 8:45 o'clock P.M., Local Time, and that Notice of the time and place of such hearing be published in the Lancaster Bee, a newspaper of general circulation in said Town, and be posted on the Town Bulletin Board, and that a copy of such Notice of Hearing be referred to the Erie County Department of Planning, pursuant to Section 239 (m) of the General Municipal Law, which Notice shall be in the form attached hereto and made a part hereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER KWAK	VOTED YES
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 3, 1996

File: rsupwalh

LEGAL NOTICE
PUBLIC HEARING
TOWN OF LANCASTER
SPECIAL USE PERMIT - WALCZAK

LEGAL NOTICE IS HEREBY GIVEN, that pursuant to the authority set forth in Chapter 50-Zoning, Section 17 (F), "Home Occupations" of the Code of the Town of Lancaster, and the Town Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of Lancaster, adopted on the 3rd day of September, 1996, the Town Board will hold a Public Hearing on the 16th day of September, 1996, at 8:45 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon the application of **Richard S. Walczak** for a Special Use Permit, for a Home Occupation (Income Tax Service) on premises locally known as 23 Chestnut Corner, Town of Lancaster, County of Erie, State of New York.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE
TOWN OF LANCASTER**

BY: ROBERT P. THILL
Town Clerk

September 3, 1996

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MILLER, WHO MOVED
ITS ADOPTION, SECONDED BY COUNCIL
MEMBER STEMPIAK, TO WIT:

WHEREAS, a vacancy exists for the position of Police Lieutenant in the Police Department of the Town of Lancaster, and

WHEREAS, the Personnel Office of the County of Erie has informed the Police Chief of the Town of Lancaster that **TIMOTHY R. MURPHY** has successfully passed a civil service examination for this position, and

WHEREAS, the Police Chief, by memorandum dated August 26, 1996, has requested the appointment of **TIMOTHY R. MURPHY** to fill the vacant position of Police Lieutenant, and

WHEREAS, it is the desire of the sponsor of this resolution to appoint **TIMOTHY R. MURPHY** to the permanent position of Police Lieutenant in the Police Department of the Town of Lancaster,

NOW, THEREFORE, BE IT

RESOLVED, that **TIMOTHY R. MURPHY**, be and is hereby appointed to the position of Police Lieutenant in the Police Department of the Town of Lancaster effective September 3, 1996 at a starting salary of \$45,992.00 per the Police Benevolent Contract, and

BE IT FURTHER

RESOLVED, that the Supervisor of the Town of Lancaster take the necessary action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER KWAK	VOTED YES
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 3, 1996

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER KWAK, WHO MOVED
ITS ADOPTION. SECONDED BY COUNCIL
MEMBER MONTOUR, TO WIT:

WHEREAS, the Department Crew Chief, by letter dated August 28, 1996,
has requested the two following lifeguards, continue their employment as lifeguard, part-time,
in the Parks and Recreation Department of the Town of Lancaster for the fall/winter swim
programs 1996/1997 season,

NOW, THEREFORE, BE IT

RESOLVED, that the following individuals be and are hereby appointed to
the position of lifeguard, part-time for the fall/winter swim programs 1996/1997 in the Parks
and Recreation Department of the Town of Lancaster at the following hourly rate:

<u>NAME</u>	<u>POSITION</u>	<u>RATE</u>
Nicole Babcock 285 Erie Street Lancaster, New York 14086	Lifeguard	\$5.25 hr
Julie Volpe 89 Wilma Drive Lancaster, New York 14086	Lifeguard	\$5.25 hr

and,

BE IT FURTHER

RESOLVED, that the Supervisor of the Town of Lancaster take the necessary
action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the adoption of the following resolution was duly put to a vote
on roll call which resulted as follows:

COUNCIL MEMBER KWAK	VOTED YES
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 3, 1996

File: RPERS.SUM (P8)

THE FOLLOWING RESOLUTION WAS OFFERED
BY, SUPERVISOR GIZA, WHO MOVED
ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPNIAK, TO WIT:

WHEREAS, the Town Board of the Town of Lancaster has heretofore retained Abate Engineering Associates, P.C., to prepare plans and specifications and provide engineering services for the Town Hall and Opera House Roof Replacement and Truss Repair, which facility is located at 21 Central Avenue in the Town of Lancaster, New York, and

WHEREAS, plans and specifications have been filed with the Town Clerk, and

WHEREAS, the Town Board of the Town of Lancaster, after review of the plans and specifications, desires to advertise for public bids pursuant to the requirements of Section 103 of the General Municipal Law;

NOW, THEREFORE, BE IT

RESOLVED, that Sealed Bids for the Town Hall and Opera House Roof Replacement and Truss Repair, which facility is located at 21 Central Avenue in the Town of Lancaster, Erie County, New York, will be received by the Town Clerk or his designee at his office in the Town Hall, 21 Central Avenue, Lancaster, New York 14086 at 10:30 A.M. Local Time, on the 26th day of September, 1996, and that a Notice to Bidders shall be published in the Lancaster Bee on 12th day of September, 1996, which Notice shall be in the form attached hereto and made a part hereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER KWAK	VOTED YES
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 3, 1996

File: rnbdrth.1

**LEGAL NOTICE
NOTICE TO BIDDERS
TOWN OF LANCASTER**

**TOWN HALL AND OPERA HOUSE
ROOF REPLACEMENT AND TRUSS REPAIR**

NOTICE IS HEREBY GIVEN that, pursuant to a resolution of the Town Board of the Town of Lancaster, Erie County, New York, sealed proposals will be received, publicly opened and read aloud by the Town Clerk or designated representative of the Town of Lancaster on the 26th day of September, 1996, at 10:30 A.M. Local Time, in the Town Hall, 21 Central Avenue, Lancaster, New York, for the Town Hall and Opera House Roof Replacement and Truss Repair.

All the proposals will be received in accordance with the Contract Documents and specifications prepared by Abate Engineering Associates, P.C., for the Town of Lancaster. A copy of which is on file with the Town Clerk at his office in the Town Hall, Town of Lancaster, 21 Central Avenue, Lancaster, New York, where the same may be examined during their usual business hours.

Copies of the Contract Documents required for review or bidding purposes may be obtained at the offices of Abate Engineering Associates, P.C., 4455 Genesee Street, Buffalo, New York, upon deposit of \$25.00 for each set of documents so obtained. The full amount of the deposit for one set of documents and one-half of the deposit for any additional sets of documents will be refunded to each bidder who submits a formal proposal to the Town of Lancaster, and who also returns the documents in good condition to the Engineer within thirty (30) days after bid security has been returned to him. Equipment manufacturers, contractors, subcontractors and others who do not submit formal proposals to the Town will be refunded one-half the amount of the deposit for all sets of complete documents returned in good condition to the Engineer within thirty (30) days after the opening of bids. No refund will be made for documents received after this thirty (30) day period.

Each proposal must be accompanied by cash, a certified check payable to the Town of Lancaster, or bid bond having as surety thereon a surety company acceptable to the Town Attorney, in an amount not less than five percent (5%) of the amount of the base bid, conditioned that, if his proposal is accepted, he will enter into a contract for the same, and that he will execute any such further security as may be required for the faithful performance of the contract.

All bids shall be submitted in sealed envelopes addressed to the Town of Lancaster and shall be plainly marked on the outside with the Contractor's name and the title of his bid.

The minimum wage rates to be paid to construction workers engaged in the construction of this project shall be the latest wage rates established by the State Industrial Commissioner.

The Owner reserves the right to reject any or all bids for failure to comply with the requirements of Contract Documents and may, at its discretion, waive any informalities or irregularities.

The Owner further reserves the right to reject any or all bids or to award a contract which, in its judgement, is in the best interest of the Owner.

The Owner further reserves the right to determine the low bidder(s) in accordance with the section of the specification entitled, "Information for Bidders."

No Bidder may withdraw his bid within forth-five (45) days after the opening thereof, but may withdraw same at any time prior to the scheduled time for the opening of bids.

A non-collusive bidding certificate must accompany each bid.

TOWN BOARD OF THE
TOWN OF LANCASTER

BY: Robert P. Thill
Town Clerk

September 3, 1996

PREFILED RESOLUTION NO. 6 - MEETING OF 09/03/96

6. Kwak/_____ Appoint Recreation Commission Members

At the request of Council Member Kwak, this resolution was withdrawn for further study.

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

Page 675

WHEREAS, DUNBAR DEVELOPMENT, LLC, 27 West Grimsby Road, Buffalo, New York, the owner and contract vendee of a parcel of property located on the east side of Transit Road south of Wehrle Drive (Nos. 6699, 6691 and 6687 Transit Road) in the Town of Lancaster, New York, has petitioned the Town Board of the said Town for the rezone of rear of said property from an R1-Residential District One to a GB-General Business District, and

WHEREAS, the Petition has been referred to the Planning Board of the Town of Lancaster for its recommendation and report;

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to Sections 130 and 265 of the Town Law of the State of New York a Public Hearing on the proposed rezone will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, on the 16th day of September, 1996, at 9:15 o'clock P.M., Local Time, and that Notice of the time and Place of such Hearing be published in the Lancaster Bee, a newspaper of general circulation in said Town and be posted on the Town Bulletin Board, and that Notice of such Hearing be referred to the Erie County Department of Planning, pursuant to Section 239 (m) of the General Municipal Law, which Notice shall be in form attached hereto and made a part hereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER KWAK	VOTED YES
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 3, 1996

File: rrezdnbh

**LEGAL NOTICE
PUBLIC HEARING
REZONE
DUNBAR DEVELOPMENT, LLC
TOWN OF LANCASTER**

Page 676

LEGAL NOTICE IS HEREBY GIVEN, that pursuant to the Town Law of the State of New York and pursuant to a resolution of the Town Board of the Town of Lancaster, adopted on the 3rd day of September, 1996, the said Town Board will hold a Public Hearing on the 16th day of September, 1996, at 9:15 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon the following proposed amendment to the Zoning Ordinance and Zoning Map of the Town of Lancaster, rezoning the following described real property from an R1-Residential District One to a GB-General Business District:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Lancaster, County of Erie and State of New York, being part of Lot 12, Section 12, Township 11, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of Transit Road, at the intersection of Lot No. 12, which is also the center line of Wehrle Drive;

THENCE southerly a distance of 1,018 feet;

THENCE easterly along a line parallel with the center line of Wehrle Drive a distance of 1,000.00 feet to a point which is the true and principal point of beginning;

THENCE southerly along a line parallel with the center line of Transit Road a distance of 471.44 feet to a point;

THENCE easterly along a line parallel with the center line of Wehrle Drive a distance of 247.712 feet to a point;

THENCE northerly a distance of 471.44 feet to a point;

THENCE westerly along a line parallel with the center line of Wehrle Drive a distance of 247.87 feet to the true and principal point of beginning.

This parcel contains 2.68 acres more or less.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

TOWN BOARD OF THE
TOWN OF LANCASTER

BY: ROBERT P. THILL
Town Clerk

September 3, 1996

THE FOLLOWING RESOLUTION WAS OFFERED
BY, COUNCIL MEMBER STEMPNIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MILLER, TO WIT:

Page 677

WHEREAS, MICHAEL WEIS, President of Epic Capital Corporation, the contract vendee of a parcel of property located on the west side of Harris Hill Road at Wehrle Drive (southwest corner of Harris Hill Road and Wehrle Drive) in the Town of Lancaster, New York, has petitioned the Town Board of the said Town for the rezone of said property from an R1-Residential District One to a GB-General Business District, and

WHEREAS, the Petition has been referred to the Planning Board of the Town of Lancaster for its recommendation and report;

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to Sections 130 and 265 of the Town Law of the State of New York a Public Hearing on the proposed rezone will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, on the 16th day of September, 1996, at 9:00 o'clock P.M., Local Time, and that Notice of the time and Place of such Hearing be published in the Lancaster Bee, a newspaper of general circulation in said Town and be posted on the Town Bulletin Board, and that Notice of such Hearing be referred to the Erie County Department of Planning, pursuant top Section 239 (m) of the General Municipal Law, which Notice shall be in form attached hereto and made a part hereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER KWAK	VOTED YES
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 3, 1996

File: rrezepch

**LEGAL NOTICE
PUBLIC HEARING
REZONE
EPIC CAPITAL CORPORATION
TOWN OF LANCASTER**

Page 678

LEGAL NOTICE IS HEREBY GIVEN, that pursuant to the Town Law of the State of New York and pursuant to a resolution of the Town Board of the Town of Lancaster, adopted on the 3rd day of September, 1996, the said Town Board will hold a Public Hearing on the 16th day of September, 1996, at 9:00 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon the following proposed amendment to the Zoning Ordinance and Zoning Map of the Town of Lancaster, rezoning the following described real property from an R1-Residential District One to a GB-General Business District:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Lancaster, County of Erie and State of New York, being part of Lots 6 and 8, Section 12, Township 11, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point on the centerline of Wehrle Drive, said centerline, said centerline also being the northerly line of Lot 6, Six Hundred Forty-nine and twenty-two hundredths (649.22) feet distant westerly from the centerline of Harris Hill Road, also being the northeast corner of Lot 6;

THENCE southerly and parallel with the westerly line of lot 6 a distance of Nine Hundred Thirty and forty-five (930.45) hundredths feet to a point on the northerly line of lands conveyed to Russell A. Gipple in Liber 5812 Page 26;

THENCE westerly along said northerly line a Distance of Eight Hundred Ninety-seven and three hundredths (897.03) feet to a point on the northwest corner of Russell A. Gipple Liber 5812 Page 26;

THENCE northerly and parallel with the easterly line of Lot 8 a distance of One Hundred Thirty-six Feet and Forty-seven (136.47) feet to a point;

THENCE easterly and parallel with the northerly line of Lot 8 a distance of Three Hundred Two and Three Hundredths (302.03) feet to a point on the westerly line of Lot 6;

THENCE northerly along the westerly line of Lot 6 a Distance of Five Hundred Twenty-nine and Twenty-three hundredths (529.23) feet to a point;

THENCE easterly and parallel with the northerly line of Lot 6 a distance of One Hundred (100) feet;

THENCE northerly and parallel with the westerly line of Lot 6 a distance of Two Hundred Sixty-four and Seventy-five Hundredths (264.75) feet to a point on the northerly line of Lot 6 and the centerline of Wehrle Drive;

THENCE easterly along the centerline of Wehrle Drive a distance of Four Hundred Ninety-five (495) feet to the point of beginning. Containing 13.04 acres including road right of way.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE
TOWN OF LANCASTER**

BY: ROBERT P. THILL
Town Clerk

September 3, 1996

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED ITS
ADOPTION, SECONDED BY COUNCIL MEMBER
KWAK, TO WIT:

RESOLVED, that the following Audited Claims be and are hereby
ordered paid from their respective accounts:

Claim No. 9887 to Claim No. 10015 Inclusive

Total amount hereby authorized to be paid: **\$546,413.64**

The question of the foregoing resolution was duly put to a vote on roll call which
resulted as follows:

COUNCIL MEMBER KWAK	VOTED YES
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 3, 1996

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MILLER, WHO MOVED
ITS ADOPTION, SECONDED BY COUNCIL
MEMBER MONTOUR, TO WIT:

WHEREAS, the Town Board of the Town of Lancaster deems it in the public interest to establish certain minimum standards and criteria for the limitation of the removal of trees on public and private property and to insure replacement of trees removed from public and private property within the Town, and

WHEREAS, the Town Board further deems it in the public interest to amend the Code of the Town of Lancaster by enacting an Ordinance entitled, "**Comprehensive Town of Lancaster Tree Ordinance**" and further designated as Chapter 42 of the Code of the Town of Lancaster;

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to §130 of the Town Law of the State of New York, a Public Hearing on the adoption of an Ordinance entitled **Comprehensive Town of Lancaster Tree Ordinance**, and designated as Chapter 42 of the Code of Town of Lancaster, will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, at 8:30 o'clock P.M., Local Time, on the 16th day of September, 1996, and that Notice of the Time and Place of such hearing shall be published in the Lancaster Bee, the official Newspaper, being a newspaper of general circulation in said Town, and be posted on the Town Bulletin Board, in the form attached hereto and made a part hereof, which Ordinance shall read as follows:

CHAPTER 42

COMPREHENSIVE TOWN OF LANCASTER TREE ORDINANCE

**ARTICLE I
Purpose and Intent**

§42-1. Legislative Intent

**ARTICLE II
Words and Phrases Defined**

§42-2. Definitions

ARTICLE III

§42-3. Tree Care and Preservation
§42-4. Pruning, Corner Clearance
§42-5. Interference with Street Lighting

ARTICLE IV

§42-6. Tree Removal
§42-7. Dead or Diseased Tree Removal on Private Property
§42-8. Stump Removal
§42-9. Tree Removal Permit
§42-10. Exceptions to Tree Removal Permit
§42-11. When Application For Tree Removal Permit is Required
§42-12. Standards for Permit Review
§42-13. Permit Issuance

ARTICLE V

§42-14. Reforestation
§42-15. Street Species to be Planted

**ARTICLE VI
Violation, Penalty**

§42-16. Interference with Town Employees or Agents
§42-17. Penalties for Offenses
§42-18. Remedial Tree Planting Required

ARTICLE VII

§42-19. Enforcement
§42-20. Severability
§42-21. Title
§42-22. When Effective

ARTICLE I

§42-1. Legislative Intent.

It is the purpose and intent of this Ordinance to:

- A. Protect and promote the public health, safety and general welfare by requiring the preservation and protection of trees on public and private property within the Town;
- B. Prevent the unnecessary clearing, destruction, and disturbance Of trees on public and private property within the Town;
- C. Establish minimum standards and criteria for the limitation of The removal of trees on public and private property within the Town;
- D. Establish minimum standards and criteria to insure the replacement of trees removed from public and private property within the Town;
- E. Reduce flooding;
- F. Reduce water pollution;
- G. Reduce effects of wind and air turbulence;
- H. Reduce visual pollution;
- I. Reduce sound pollution;
- J. Reduce soil erosion;
- K. Reduce levels of carbon dioxide and return oxygen to atmosphere;
- L. Increase groundwater supply;
- M. Provide shade;
- N. Provide habitat for wildlife;
- O. Conserve and protect property values and otherwise facilitate the creation of a convenient, attractive and harmonious community; and
- P. Generally preserve and safeguard the ecological and aesthetic environment.

ARTICLE II

Words and Phrases Defined

§42-2. Definitions.

STREET TREES are herein defined as any and all trees, shrubs, bushes, and all woody vegetation on land located within street right of ways.

PARK TREES are herein defined as any and all trees, shrubs, bushes and other woody vegetation on land located within Town parks, and all other areas owned by the Town not within street rights of ways.

TOPPING is herein defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

TREES are herein defined as any woody perennial plant (deciduous or coniferous) usually having a single main stem generally with few or no branches on its lower part.

ARTICLE III

§42-3. Tree care and preservation.

The Town Department of Parks, Senior Facility and Buildings and Grounds' General Crew Chief, shall have the right to prune, treat, maintain and preserve any street or park tree as may be necessary to insure public safety, or to preserve or enhance the symmetry and beauty of public streets and parks.

§42-4. Pruning, corner clearance.

Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches of said tree so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street or sidewalk.

Said owners upon notice by the Town shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a danger and menace to the safety of the public.

§42-5. Authority to prune.

The General Crew Chief shall have the right to direct the pruning of any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

ARTICLE IV

§42-6. Tree removal.

It shall be unlawful for any person, firm, or Town department to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms, or other obstructions where other pruning practices are impractical may be topped by the order of the General Crew Chief..

§42-7. Dead or diseased tree removal on private property.

The General Crew Chief shall have the right to cause the removal of any dead or diseased trees on private property within the Town, when such trees constitute a hazard to public life and property, or harbor insects or disease which constitute a potential threat to other trees within the Town. The General Crew Chief shall notify in writing the owners of such trees.

Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the General Crew Chief shall have the authority

to remove such trees and charge the cost of removal on the owner's property tax notice. Where the Town is required to remove a tree for waterway maintenance purposes, the cost shall not be charged to the owner of the Property.

§42-8. Stump removal.

All stumps of street and park trees shall be removed at least below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

§42-9. Tree Removal Permit.

Subject to the exceptions of §42-10 of this part, it shall be unlawful for any person to cut down, kill or otherwise destroy any tree having a caliper greater than four (4) inches measured six inches above grade, growing on privately owned land within the Town, without a tree removal permit issued by the General Crew Chief. No one shall cut down, kill, or otherwise destroy any street tree or park tree without the permission of the General Crew Chief.

§42-10. Exceptions to Removal Permit.

The requirement of a permit in Section 42-9 of this Part shall not apply to the following activities:

- A. Cutting down, killing or otherwise destroying trees by owner of any tract of land no larger than one (1) acre, improved and being used for residential purposes.
- B. Cutting down, killing or otherwise destroying any tree which has become a danger to human life or property due to disease, accidental causes, natural forces or other emergency.
- C. Cutting down, killing or otherwise destroying trees on properties while being operated and maintained as farms, nurseries, orchards or commercial forests. This exception shall not permit timber harvesting or any form of tree removal incidental to or in preparation for development of the land for a change of use thereof to a use not specified in this Subsection 42-10 (C).
- D. Cutting down, killing or otherwise destroying trees by public utility and natural gas companies performing normal construction and maintenance pursuant to and in compliance with the law.
- E. Cutting down, killing or otherwise destroying trees where required by Law.

§42-11. When Application For Removal Permit is required.

- A. When tree removal is occasioned by any development or land use change thereof requiring site or subdivision plan approval under the Zoning Ordinance, such approval shall constitute a permit to remove, cut down, kill or otherwise destroy the trees other than those designated to be preserved. No separate Tree Removal Permit Application shall be required.
- B. When the person seeking a tree removal permit is not required to file a site or subdivision plan, the application shall set forth the type, size and location of the trees sought to be cut down, killed or otherwise

destroyed and the relationship thereof to the other trees and existing and proposed uses or structures on the same lot or tract of land.

§42-12. Standards for permit review.

- A. The extent to which use of the property requires cutting down, killing or destroying trees.
- B. Any hardship to the applicant which will result from a modification or denial of the requested permit.
- C. The desirability of preserving any tree by reason of its size, age or some other outstanding quality, such as uniqueness, rarity or status as a landmark or species specimen.
- D. The extent to which the area would be subject to increased water runoff and other environmental degradation due to removal of the trees.
- E. The heightened desirability of preserving tree cover in densely developed densely populated areas.
- F. The need for visual screening in transitional zones or relief from glare, or any other negative visual impact.
- G. All the other factors enumerated in Article I of this Ordinance.

§42-13. Permit issuance.

- A. Tree Removal Permits shall be issued by the Building Inspector after approval by the Town Board.
- B. Review of application - time period. Except for site plan or Subdivision plan review, if the tree removal permit application is not acted upon within thirty (30) days, it shall be deemed approved.

ARTICLE V

§42-14. Reforestation.

The Town shall have the right to plant street trees and park trees as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public streets and parks. This subsection shall not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with this section.

§42-15. Street species to be planted.

The Town Board shall determine the official street tree species list for the Town of Lancaster, New York, and the same shall be filed with the Town Clerk on an annual basis. No species other than those included in this list may be planted as street trees without written permission from the Town Board.

ARTICLE VI

Violation, Penalty

§42-16. Interference with Town Employees or Agents.

It shall be lawful for any person to prevent, delay, obstruct or interfere with the employees or agents of the Town while engaging in the maintenance or removal of any street trees, park trees, or trees on private property, as authorized in this ordinance.

§42-17. Penalties for Offenses.

Every violation by any person, firm, association or corporation of any of the provisions of this Ordinance shall be deemed to be an offense against this Ordinance, and upon conviction therefor, such person, firm, association or corporation shall be subject to a fine of not more than five hundred dollars (\$500.) or imprisonment not to exceed six (6) months, or both, for each and every offense; and a civil penalty for the removal or destruction of any tree on private property or street or park tree equal to its value, not to exceed \$2,500.00 per tree.

§42-18. Remedial tree planting required.

If any trees are unlawfully cut down, cleared, killed or otherwise destroyed by any person(s), firm(s), association(s), or corporation(s) in connection with, or preparatory to, any development, improvement or change of use, or proposed rezoning, for which a permit or permission is required by the Town, then, in addition to any other fine or penalty provided for in this Ordinance, or elsewhere, said person(s), firm(s), association(s) or corporation(s) shall not be granted such permit or permission by the Town unless and until a remedial planting plan for the subject premises is accepted and approved by the Town Division of Forestry and Planning Board as part of the coordinated review process.

ARTICLE VII

§42-19. Enforcement.

This Ordinance shall be administered as specified herein and enforced by the Building Inspector.

§42-20. Severability.

If any clause, sentence, paragraph or part of this chapter shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder of this Chapter and shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§42-21. Title.

This Ordinance shall be titled, "**Comprehensive Town of Lancaster Tree Ordinance**".

§42-22. When effective.

This Ordinance shall take effect upon adoption by the Town Board.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER KWAK	VOTED	YES
COUNCIL MEMBER MILLER	VOTED	YES
COUNCIL MEMBER MONTOUR	VOTED	YES
COUNCIL MEMBER STEMPNIAK	VOTED	YES
SUPERVISOR GIZA	VOTED	YES

August 26, 1996

File:rtreord

**PUBLIC HEARING
TOWN OF LANCASTER**

TREE ORDINANCE

LEGAL NOTICE IS HEREBY GIVEN that pursuant to the Town Law of the State of New York and pursuant to a resolution of the Town Board of the Town of Lancaster adopted on the 3rd day of September, 1996, the said Town Board will hold a Public Hearing on the 16th day of September, 1996 at 8:30 clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon the adoption of a proposed Ordinance entitled: **"Comprehensive Town of Lancaster Tree Ordinance"** and further designated as Chapter 42 of the Code of the Town of Lancaster, summarized as follows:

"An Ordinance to conserve and protect property values and otherwise facilitate the creation of a convenient, attractive and harmonious Community by preventing the unnecessary clearing, destruction and disturbance of trees on public and private property within the Town and establishing minimum standards and criteria for the limitation of the removal of trees on public and private property within the Town and establishing minimum standards and criteria to insure the replacement of trees removed from public and private property within the Town."

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE
TOWN OF LANCASTER**

By: **ROBERT P. THILL**
Town Clerk

September 3, 1996

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MILLER, WHO MOVED
ITS ADOPTION. SECONDED BY COUNCIL
MEMBER MONTOUR . TO WIT:

WHEREAS, the **BELLA VISTA GROUP**, 6495 Transit Road, Bowmansville, New York, as the contract vendee, has petitioned the Town Board of the Town of Lancaster for the rezone of a parcel of land on the south side of William Street, east of Transit Road, in the Town of Lancaster, from an R-1- Residential District One to a GB-General Business District, in accordance with Chapter 50-42 of the Code of the Town of Lancaster, entitled "Amendment Procedure", and

WHEREAS, a Public Hearing on this Petition for Rezone was held by the Town Board of the Town of Lancaster on the 1st day of July, 1996, pursuant to public notice duly published and posted, and

WHEREAS, full opportunity to be heard was given to all parties in interest, and

WHEREAS, the Petitioner has amended its petition to reduce the area sought to be rezoned as is reflected in an amended legal description and plan, and revised survey prepared by Richard J. Aronica, Land Surveyor, revised July 30, 1996, and

WHEREAS, a review of the Petition, the recommendation of the Planning Board; the response of the Erie County Department of Environment and Planning; the evidence adduced at the SEQR hearing held on July 1, 1996, the evidence adduced at the said Town Board Public Hearing; and the present Master Plan and Zoning Map of the Town of Lancaster, reveals the following facts:

1. That the proposed rezone of subject premises to a GB-General Business District is to a use which is not presently provided for on the subject premises.
2. That the Zoning Ordinance of the Town of Lancaster was adopted on November 28, 1989, by the Town Board of the Town of Lancaster.
3. That the Petitioner knows the use group to which the subject premises is zoned, that being R-1 - Residential District One, and the use categories within said use.
4. That the present zoning for the frontage of the property is presently GB-General Business 650 feet in depth from Transit Road.

5. That the property 100 feet directly east of the proposed rezone was rezoned MFR-3 Multi-family District 3, in 1986 to provide a buffer from R-1 (Residential District One) zoning and more commercial zoning toward Transit Road.
6. That the property directly west of the property on both sides of Transit Road is commercial.
7. That it is unlikely there will be any R-1 development on the site;
8. That there will remain a buffer of R1-Residential District One zoning of 100.53± feet adjacent westerly of the MFR-3 Multi-family zoning referred to in Number 5 above, to a depth of 849.12± feet.

NOW, THEREFORE, BE IT

RESOLVED, as follows:

1. That the Zoning Ordinance and Zoning Map of the Town of Lancaster is hereby amended to provide that the following described premises petitioned to be rezoned shall be rezoned from an R1-Single Family Residence District to a GB-General Business District:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Lancaster, County of Erie and State of New York, being part of Lot 95, Township 10, Range 6 of the Buffalo Creek Reservation, and more particularly described as follows:

BEGINNING at a point in the south line of William Street (50 feet wide), distant 622.9 feet easterly from the center line of Transit Road (which is also the west line of Lot No. 95), said point of beginning also being in the west line of lands formerly conveyed to Jacob Rogacki and Marion K. Rogacki, his wife by deed recorded in the Erie County Clerk's Office in Liber 3356 of Deeds at page 172;

THENCE north 88 degrees, 35 minutes 30 seconds East along the south line of William Street, a distance of 225.17 feet to a point;

THENCE south 00 degrees 05 minutes 30 seconds West parallel with the west line of lands so conveyed to Rogacki and wife, a distance of 150.0 feet to a point;

THENCE north 88 degrees 35 minutes 30 seconds East parallel with the south line of William Street, a distance of 169.48 feet to a point;

THENCE South 00 degrees 05 minutes 30 seconds West parallel with the west line of lands so conveyed to Rogacki and wife, a distance of 100 feet to a point;

THENCE South 88 degrees 35 minutes 30 seconds West parallel with the south line of William Street, a distance of 0.53 feet to a point;

THENCE south 00 degrees 05 minutes 30 seconds West along the east line of lands so conveyed to Rogacki and wife (which is also parallel with the west line of Lot No. 95), a distance of 849.12;

THENCE south 89 degrees 54 minutes 30 seconds East a distance of 100.50 feet to a point on the prolongation of the east line of lands so conveyed to Rogacki and wife;

THENCE South 00 degrees 05 minutes 30 seconds west continuing on the prolongation of the aforesaid line and parallel with the west line of Lot No. 95, a distance of 443.29 feet to a point on the south line of Lot No. 95;

THENCE south 88 degrees 26 minutes 50 seconds West along the south line of Lot No. 95, a distance of 494.67 feet to a point, distant 622.9 feet easterly from the west line of Lot NO. 95 as measured along the south line of Lot No. 95;

THENCE north 00 degrees 05 minutes 30 seconds East along the westerly line of lands formerly conveyed to Jacob Rogacki and Marion Rogacki, his wife by deed recorded in the Erie County Clerk's Office in Liber 3502 of Deeds at page 72 and Liber 3356 of Deeds at page 172 (which is also parallel with the west line of Lot No. 95), a distance of 1546.3 feet to the point and place of beginning.

Containing 14.427 acres, more or less.

2. The said described premises shall be subject to the following conditions imposed upon the rezone of the property:

- A. A portion of the property commencing approximately 572.90' from the right of way of Transit Road, as shown on the amended plan and revised boundary survey prepared by Richard J. Aronica, revised July 30, 1996, and set forth in the legal description herein shall be rezoned GB-General Business, which leaves a remaining area 100.53± feet wide by 849.12± feet in length adjacent west of the MFR-3 Multi-family Zoning as a R1-Residential Zoning buffer between the GB development herein and the MFR-3 zoning, said before described buffer to contain a berm, pine trees and a fence as hereinafter described, and over area east of said buffer area the petitioner shall convey to the Town permanent conservation easements to assure the future preservation of a wooded and green area.
- B. That the existing trees on the easterly side of the property shall be retained for a minimum fifty (50) feet from the easterly property line, and that a conservation easement shall be granted to the Town of Lancaster over the easterly fifty (50) feet of the property herein, which will be designated Conservation Area "A".
- C. That a second conservation easement to be known as Conservation Area "B" shall be conveyed to the Town of Lancaster by the property owner over an additional twenty-five (25) feet adjacent west of the Conservation Area "A", which shall be replanted by the Petitioner with hardwoods and evergreens as a part of the landscape plan for the site.
- D. A ten (10) foot high berm shall be constructed on the westerly 25.53 feet of the retained R-1 Zoning adjacent to Conservation Area "B" and shall be topped by a six (6) foot tall wooden fence and plantings of pines and evergreens a minimum six (6) feet tall at ten (10) foot intervals.
- E. That there shall also remain the code required twenty-five (25) feet of green area on the easterly perimeter of the GB Zoning resulting in a total green area of 125.53 feet from the parking lot to the east line of R-1 Zoning, the easterly 75 feet of which shall be dedicated conservation easements to the Town of Lancaster to assure preservation of this green area in perpetuity.
- F. That the rezone will be limited to a general business complex as indicated on above mentioned site plan.
- G. This shall be a provisional rezone with a full plan for the entire development to be submitted to the Town within six (6) months and construction of the first phase within one year of approval of site plan.
- H. Internal drainage shall be designed and constructed to accommodate site runoff and upstream drainage.
- I. Parking areas will be paved with asphalt or concrete or paving bricks or other materials of similar dust-free quality.
- J. Fencing shall be installed on the berm and shall correspond to town standards, as shall be approved by the Town Board on the Site Plan.

- K. That the rezone is conditioned upon a turning lane being constructed at Transit Road and William Street, as approved by the New York State Department of Transportation..
- L. That the rezone is conditioned upon a traffic arrow being installed at Transit Road and William Street, if approved by the New York State Department of Transportation.
- M. All lights shall be installed facing away from the easterly town-houses and shall be engineered to illuminate downward.
- N. The Petitioner shall be responsible for placing a sewer line from the Queen's Park Subdivision to the existing pump station which will then allow this line to be gravity feed eliminating the need for the pump station with a resultant cost savings per year to Sewer District No. 4 of approximately \$25,000. for the operation and maintenance of the pump station.
- O. Unless specifically modified by reference herein, no sections of the Lancaster Town Code are deemed waived by this resolution.

3. That said amendment to the Zoning Ordinance be added in the minutes of the Town Board of the Town of Lancaster, held on September 3, 1996.

4. That a certified copy thereof be published in the Lancaster Bee on September 5, 1996, in form attached hereto and made a part hereof.

5. That the Affidavit of Publication be filed with the Town Clerk;

6. That a certified copy of this resolution be furnished to the Erie County Department of Planning.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER KWAK	VOTED NO
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED NO
SUPERVISOR GIZA	VOTED YES

September 3, 1996

File: rablava.1

**LEGAL NOTICE
NOTICE OF ADOPTION OF AMENDMENT
ZONING ORDINANCE, TOWN OF LANCASTER
BELLA VISTA, TRANSIT ROAD & WILLIAM STREET**

LEGAL NOTICE IS HEREBY GIVEN, that the Zoning Ordinance of the Town of Lancaster is hereby amended and the Zoning Map of said Town is hereby changed so that the real property hereinafter described is changed from an R1-Residential District One to a GB-General Business District:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Lancaster, County of Erie and State of New York, being part of Lot 95, Township 10, Range 6 of the Buffalo Creek Reservation, and more particularly described as follows:

BEGINNING at a point in the south line of William Street (50 feet wide), distant 622.9 feet easterly from the center line of Transit Road (which is also the west line of Lot No. 95), said point of beginning also being in the west line of lands formerly conveyed to Jacob Rogacki and Marion K. Rogacki, his wife by deed recorded in the Erie County Clerk's Office in Liber 3356 of Deeds at page 172;

THENCE north 88 degrees, 35 minutes 30 seconds East along the south line of William Street, a distance of 225.17 feet to a point;

THENCE south 00 degrees 05 minutes 30 seconds West parallel with the west line of lands so conveyed to Rogacki and wife, a distance of 150.0 feet to a point;

THENCE north 88 degrees 35 minutes 30 seconds East parallel with the south line of William Street, a distance of 169.48 feet to a point;

THENCE South 00 degrees 05 minutes 30 seconds West parallel with the west line of lands so conveyed to Rogacki and wife, a distance of 100 feet to a point;

THENCE South 88 degrees 35 minutes 30 seconds West parallel with the south line of William Street, a distance of 0.53 feet to a point;

THENCE south 00 degrees 05 minutes 30 seconds West along the east line of lands so conveyed to Rogacki and wife (which is also parallel with the west line of Lot No. 95), a distance of 849.12;

THENCE south 89 degrees 54 minutes 30 seconds East a distance of 100.50 feet to a point on the prolongation of the east line of lands so conveyed to Rogacki and wife;

THENCE South 00 degrees 05 minutes 30 seconds west continuing on the prolongation of the aforesaid line and parallel with the west line of Lot No. 95, a distance of 443.29 feet to a point on the south line of Lot No. 95;

THENCE south 88 degrees 26 minutes 50 seconds West along the south line of Lot No. 95, a distance of 494.67 feet to a point, distant 622.9 feet easterly from the west line of Lot No. 95 as measured along the south line of Lot No. 95;

THENCE north 00 degrees 05 minutes 30 seconds East along the westerly line of lands formerly conveyed to Jacob Rogacki and Marion Rogacki, his wife by deed recorded in the Erie County Clerk's Office in Liber 3502 of Deeds at page 72 and Liber 3356 of Deeds at page 172 (which is also parallel with the west line of Lot No. 95), a distance of 1546.3 feet to the point and place of beginning.

Containing 14.427 acres, more or less.

This rezone shall be subject to the following conditions:

- A. A portion of the property commencing approximately 572.90 feet from the right of way of Transit Road, as shown on the amended plan and revised boundary survey prepared by Richard J. Aronica, revised July 30, 1996, and set forth in the legal description herein shall be rezoned GB-General Business, which leaves a remaining area 100.53± feet wide by 849.12± feet in length adjacent west of the MFR-3 Multi-Family zoning as a R1-Residential Zoning buffer between the GB development herein and the MFR-3 Zoning, said before described Buffer to contain a berm, pine trees and a fence as hereinafter described and over area east of buffer area the Petitioner shall convey to the Town permanent conservation easement to assure the future preservation of a wooded and green area.
- B. That the existing trees on the easterly side of the property shall be retained for a minimum fifty (50) feet from the easterly property line, and that a Conservation Easement shall be granted to the Town of Lancaster over the easterly fifty (50) feet of the property herein which will be designated Conservation Area "A".
- C. That a second Conservation Easement to be known as Conservation Area "B" shall be conveyed to the Town of Lancaster by the property owner over an additional twenty-five (25) feet adjacent west of the Conservation Area "A" which shall be replanted by the Petitioner with hardwoods and evergreens as a part of the landscape plan for the site.
- D. A ten (10) foot high berm shall be constructed on the westerly 25.53 feet of the retained R-1 Zoning adjacent to Conservation Area "B" and shall be topped by a six (6) foot tall wooden fence and plantings of pines and evergreens a minimum six (6) feet tall at ten (10) foot intervals.
- E. That there shall also remain the code required twenty-five (25) feet of green area on the easterly perimeter of the GB Zoning, resulting in a total green area of 125.53 feet from the parking lot to the east line of the R-1 Zoning, the easterly seventy-five (75) feet of which shall be dedicated Conservation Easements to the Town of Lancaster to assure preservation of this green area in perpetuity.
- F. That the rezone will be limited to a general business complex as indicated on above mentioned site plan.
- G. This shall be a provisional rezone with a full plan for the entire Development to be submitted to the Town within six (6) months and construction of the first phase within one year of approval of site plan.
- H. Internal drainage shall be designed and constructed to accommodate site runoff and upstream drainage.
- I. Parking areas will be paved with asphalt or concrete or paving bricks or other materials of similar dust-free quality.
- J. Fencing shall be installed on the berm and shall correspond to town standards, as shall be approved by the Town Board on the Site Plan.
- K. That the rezone is conditioned upon a turning lane being constructed at Transit Road and William Street, as approved by the New York State Department of Transportation.
- L. That the rezone is conditioned upon a traffic arrow being installed at Transit Road and William Street, if approved by the New York State Department of Transportation.

- M. All lights shall be installed facing away from the easterly town-houses and shall be engineered to illuminate downward.
- N. The Petitioner shall be responsible for placing a sewer line from the Queen's Park Subdivision to the existing pump station which will then allow this line to be gravity feed, eliminating the need for The pump station with a resultant cost savings per year to Sewer District No. 4 of approximately \$25,000. for the operation and maintenance of the pump station.
- O. Unless specifically modified by reference herein, no sections of the Lancaster Town Code are deemed waived by this resolution. document.

September 3, 1996

STATE OF NEW YORK :
COUNTY OF ERIE : ss:
TOWN OF LANCASTER:

This is to certify that I, ROBERT P. THILL, Town Clerk of the Town of Lancaster in the said County of Erie, have compared the foregoing copy of an Ordinance Amendment, with the original thereof filed in my office at Lancaster, New York on the 3rd day of September, 1996 and that the same is a true and correct copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town this 3rd day of September, 1996.

Robert P. Thill
Town Clerk

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MONTGOMERY, WHO MOVED
ITS ADOPTION. SECONDED BY
COUNCIL MEMBER MILLER . TO WIT:

RESOLUTION OF THE TOWN OF LANCASTER, NEW
YORK, ADOPTED SEPTEMBER 3, 1996, AMENDING THE
BOND RESOLUTION ADOPTED FEBRUARY 27, 1995.

Recitals

WHEREAS, the Town Board of the Town of Lancaster, in
the County of Erie, New York, has heretofore duly authorized the
reconstruction of the Clark Street Bridge, in the Town, at the
estimated maximum cost of \$175,000, which amount was appropriated
therefor pursuant to the bond resolution adopted by said Town
Board on February 27, 1995 and hereinafter referred to, and the
estimated cost of said project has now been determined to be
\$205,000, and it is therefore necessary to increase the
appropriation therefor by \$30,000;

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF LANCASTER, IN
THE COUNTY OF ERIE, NEW YORK (by the favorable vote of not less
than two-thirds of all members of said Town Board) AS FOLLOWS:

Section A. The bond resolution of said Town duly
adopted by the Town Board on February 27, 1995, entitled:

"Bond Resolution of the Town of Lancaster, New
York, adopted February 27, 1995, authorizing the
reconstruction of the Clark Street Bridge, in the
Town, stating the estimated maximum cost thereof
is \$175,000, appropriating said amount therefor,
and authorizing the issuance of \$175,000 serial
bonds of said Town to finance said appropriation,"

is hereby amended to read as follows:

BOND RESOLUTION OF THE TOWN OF LANCASTER, NEW YORK, ADOPTED FEBRUARY 27, 1995 AND AMENDED SEPTEMBER 3, 1996, AUTHORIZING THE RECONSTRUCTION OF THE CLARK STREET BRIDGE, IN THE TOWN, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$205,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$205,000 SERIAL BONDS OF SAID TOWN TO FINANCE SAID APPROPRIATION.

THE TOWN BOARD OF THE TOWN OF LANCASTER, IN THE COUNTY OF ERIE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said Town Board) AS FOLLOWS:

Section 1. The Town of Lancaster, in the County of Erie, New York (herein called "Town"), is hereby authorized to reconstruct the Clark Street Bridge, located in the Village of Lancaster, in said Town. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof is \$205,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$205,000 serial bonds of the Town to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Serial bonds of the Town in the principal amount of \$205,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness of said specific object or purpose for which said \$205,000 serial bonds are to be issued, within the limitations of Section 11.00 a. 10. of the Law, is twenty (20) years; however, the bonds authorized pursuant to this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds, shall mature no later than five (5) years from the date of original issuance of said bonds or notes.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will not exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town without limitation of rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds having substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes, and Section 50.00 and Sections 56.00 to 60.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond

anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution shall take effect immediately. The Town Clerk is hereby authorized and directed to cause said bond resolution to be published, in full, in the "LANCASTER BEE," a newspaper having a general circulation in the Town, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

Section B. The amendment of the bond resolution set forth in Section A. of this resolution, shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER KWAK	VOTED	YES
COUNCIL MEMBER MILLER	VOTED	YES
COUNCIL MEMBER MONTOUR	VOTED	YES
COUNCIL MEMBER STEMPNIAK	VOTED	YES
SUPERVISOR GIZA	VOTED	YES

September 3, 1996

File: mbdtax

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER KWAK, WHO MOVED
ITS ADOPTION, SECONDED BY COUNCIL
MEMBER MILLER, TO WIT:

RESOLVED, that the following Building Permit Applications be and are hereby approved and the issuance of these Building Permits be and are hereby authorized:

CODES:

(SW) = Sidewalks as required by Chapter 12-1B. of the Code of the Town Lancaster are waived for this permit.

(CSW) = Conditional sidewalk waiver.

<u>No.</u>	<u>Code</u>	<u>Applicant</u>	<u>Street Address</u>	<u>Structure</u>
3720		Town of Lancaster	Westwood Park	Er. Shelters
3721		Majestic Pools Inc	40 Via Donato E	Er. Fence/Pool
3722		Majestic Pools Inc	351 Broezel Ave	Er. Pool
3723		Ryan Homes	1 Signal Dr	Er. Sin. Dwlg
3724		Don Warda	67 Steinfeldt Rd	Er. Shed
3725		Tim Langiewicz	1346 Townline Rd	Er. Pool
3726		John Vecere	3 Montauk Ln	Er. Shed
3727		Decks Unlimited Const	25 Hillside Pkwy	Er. Fence/Deck
3728		Thomas McCabe	52 Country Pl	Ex. Sin. Dwlg
3729		Majestic Pools Inc	5166 William St	Er. Fence/Pool
3730		Majestic Pools Inc	9 Hill Valley Dr	Er. Fence/Pool
3731		Mark Kubicki	5747 Broadway	Dem/Er Shed
3732		Charles Morgante	141 Pleasant View Dr	Ex. Garage
3733		Beauty Pools	51 Hillside Pkwy	Er. Fence/Pool
3734		Joseph Oddo	1 Windcroft Ln	Er. Shed
3735		Robert Wisniewski	3590 Bowen Rd	Er. Garage
3736		William Russ	15 Old Post Rd	Er. Roof
3737		Donna/Jeff Faats	9 Trentwood Tr	Er. Deck

and,

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (SW) for sidewalk waiver be and are hereby approved with a waiver of the Town Ordinance requirement for sidewalks, and

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (CSW) for conditional sidewalk waiver be and are hereby approved with a waiver of the Town Ordinance required for sidewalks, however, the waiver is granted upon the expressed condition that the Town of Lancaster, at any future date, reserves the right to order sidewalk installation at the expense of the property owner.

The question of the adoption of the following resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER KWAK	VOTED YES
COUNCIL MEMBER MILLER	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 3, 1996

FILE: RBLDG4 (P1-2)

COMMUNICATIONS

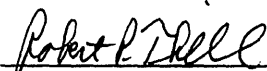
Page 703

643. Police Chief to Lancaster Steel Co. -
Response to letter re: request for reduction of speed limit on Walden Ave.
DISPOSITION: Received and Filed
644. Town Clerk to Zoning Board Members, Building Inspector and Town Attorney -
Transmittal of variance petitions for meeting to be held 9/12/96. **DISPOSITION:**
Received and Filed
645. NYSDEC to Deputy Town Attorney -
Advisement of SEQR Solicitation for Centerbrook Subdivision. **DISPOSITION:**
Planning Committee
645. NYSDEC to Dep. Town Attorney -
Advisement of SEQR solicitation for Centerbrook Subdivision. **DISPOSITION:**
Received and Filed
646. John Gambon to Town Board -
Request Board deny Bella Vista rezone petition for William St./Transit Rd. theater
complex. **DISPOSITION:** Received and Filed
647. Association of Towns to Supervisor -
Advisement re: 1997 dues for membership. **DISPOSITION:** Received and Filed
648. County Div. Of Budget, Management and Finance -
Settlement notice for tax year 1996. **DISPOSITION:** Received and Filed
649. General Crew Chief to Cynthia Bauer -
Response to letter re: water temperature at Keysa Town Park swimming pool and
Special Needs class provided through Recreation Dept. **DISPOSITION:** Received
and Filed
650. General Crew Chief to Supervisor -
Request continuation of employment of two lifeguards, part-time, for the 1996-1997
fall/winter swim program. **DISPOSITION:** Received and Filed
651. NYSDOT to Dep. Town Attorney -
Results of SEQR review of Transit Road Restaurant Park, Transit Rd./Wehrle Dr.
DISPOSITION: Received and Filed
652. Iroquois Central School District to Receiver of Taxes -
Transmittal of resolution re: partial payment. **DISPOSITION:** Received and Filed
653. Kathleen Vedella to Town Board -
Request Board deny Bella Vista rezone petition for William St./Transit Rd. theater
complex. **DISPOSITION:** Received and Filed

ADJOURNMENT:

ON MOTION OF COUNCIL MEMBER MILLER, AND SECONDED BY THE
ENTIRE TOWN BOARD AND CARRIED, the meeting was adjourned at 10:10 P.M.

Signed



Robert P. Thill, Town Clerk